

REMARKS

Finality of Office Action

As stated in Applicant's previous submission, and as discussed during an interview that was held with the Examiner on March 16, 2011, the Board of Appeals has upheld the Examiner's rejection of Claims 1-20 under 35 USC 103 as being unpatentable over the combination of Stiles and Tanaka. The Board has clearly indicated their basis for upholding the Examiner's position, to wit:

"We broadly yet reasonably construe the claim limitation **"collectively control"** as control "relating to or made by a number of individuals taken or acting as a group." We find Stiles teaches that a pilot and a co-pilot work together to control an aircraft (FF 1), which reads on the claimed language "collectively control" under our claim construction. We also find Stiles teaches that when the input of one pilot is increased over a threshold, the input of another pilot is decreased (FF 1). Additionally, Figure 2 of Stiles shows the circuitry for summing or combining the signals and reducing the two signals to a single signal. Thus, we conclude that Stiles teaches **reducing inputs and collectively controlling**. We further find Tanaka teaches that a plurality of game controllers in one or more video game hubs controls on-screen game character icons (FF 2)." (Decision on Appeal, notification date 9/23/2010; emphasis added)

Thus, the Board has found that Stiles discloses the notion of collective control. In the recent Office Action, the Examiner addressed Applicant's recent claim amendments, which added the following limitations to those considered by the Board:

"said means for reducing said control input sets comprising a configuration interface for specifying said reduction scheme as a mapping of said control input sets received by said video game controller hub onto said at least

one reduced control input set provided to a video game console, said mapping comprising a mapping of said video game controllers onto at least one corresponding on-screen entity, said interface operable by at least one user of said video game controller hub to indicate how said control input sets from said corresponding plurality of video game controllers are to be combined to control said at least one on-screen entity.”

These limitations were not considered by the Board, nor were they presented to the Examiner in a previous submission. Applicant did cancel Claim 2 and add the limitations thereof to Applicant’s amended Claim 1, that is:

2. The controller hub of Claim 1, wherein said reduction scheme specifies a mapping of said control input sets onto said at least one reduced control input set.

However, Applicant also amended Claim 1 to include newly presented limitations regarding the nature of the mapping and the interface, that is:

“said mapping comprising a mapping of said video game controllers onto at least one corresponding on-screen entity, said interface operable by at least one user of said video game controller hub to indicate how said control input sets from said corresponding plurality of video game controllers are to be combined to control said at least one on-screen entity.”

This material had never before been presented to the Examiner for consideration. Yet, the Examiner has made a first Office Action final. Applicant discussed this with the Examiner during the above referenced interview. The finality of the Office Action is premature because Applicant did not present claims drawn to the same invention as previously presented. (MPEP 706.07(b)) Applicant clearly claimed an invention that introduced that limitations of a mapping and interface for the first time. This invention had never before been presented.

The Examiner may have determined that these newly presented inventive features were within the art of record, but it was error to presume that Applicant has merely presented the same invention again. The Examiner had never before considered these limitations because they had never before been presented, and Applicant had every reasonable expectation that they would overcome the art of record because they comprised a new invention. Accordingly, withdrawal of finality is indicated. (MPEP 706.07(d))

35 USC § 103

Applicant thanks the Examiner for his courtesy and assistance during the above-mentioned interview. While no agreement was reached, Applicant is of the opinion that the Claims as now presented address all of the concerns raised by the Examiner in the outstanding Office Action, and as expressed by the Examiner during the interview.

In particular, Stiles allows a pilot and a copilot to share control of an airplane, based upon a priority scheme. Applicant now claims that at least three inputs are used to control an on-screen entity. As pointed out during the interview, none of the art of reference teaches the control of an on-screen entity by more than one person. While Stiles teaches control of an airplane by two individuals, such scheme would be of no use to the skilled person in controlling an on-screen entity, especially where, as now claimed, three or more individuals control the entity. Stiles only functions because control by one is subordinated to that of the other of the pilot and copilot. A stalemate or average of the pilot and copilot actions would result in a plane crash unless the actions are in the same direction. That is why Stiles chooses to, in most cases, give priority to the pilot. A contradiction in control during flight, particularly during an emergency response, would be disastrous. As such, nothing in Stiles suggests to the skilled person that control of an on-screen entity could be shared among three or more individuals. Rather, the opposite is true. If Stiles is applied to control an on-screen entity, as suggested by the Examiner, then that entity will be predominately controlled by one or the other of two persons. Control will not be shared as claimed.

On this latter point, Applicant has amended the claims to clarify what is meant by sharing control. As noted above, the Board observed that shared control applied, in its broadest sense, to Stiles. As now amended, the claims recite:

“said interface operable by at least one user of said video game controller hub to indicate how said control input sets are to be combined to control at least one on-screen entity depicted on a display device;

And:

said mapping comprising an averaging of each said control input comprising said control input sets onto said at least one reduced control input set...”

Thus, control of the on-screen entity is effected in the claimed invention both in accordance with an assignment scheme and in accordance with an averaging of the individual's actions. Thus, three or more individuals share control of an on-screen entity, as determined by a mapping. It will be appreciated that there can be a substantial number of players. The mapping first determines which of these players shall share a particular on-screen entity. Stiles does not assign three or more individuals to an on-screen entity and none of the other art of record suggests doing so. Rather, Stiles allocates control of an aircraft between a pilot and a copilot. Applicant's earlier point about Stile being hard-wired was not well put before. Applicant points out that Stiles does not teach or suggest that the assignment of individuals is not modifiable in Stiles. Only a pilot and copilot are configured in Stiles and this configuration is fixed. Stiles only allows the priority of each individual to be adjusted according to a scheme based on control input magnitude, where the scheme is set and not alterable by the users. That is, Stiles allows one of the pilot and copilot to have more influence than the other.

Further, the invention as now claimed makes it clear that the three or more individuals share the control of the on-screen entity democratically, *i.e.* based on an averaging of their individual actions. As noted above, applying an averaging

to Stiles would result in a plane crash. If the pilot decides to take a first action and the copilot decides to take an opposite action, then either action alone may be valid, but an average of these actions would put the plane on a path that neither the pilot nor the copilot desires. Stiles thus teaches the need to avoid averaging the actions taken by each of the pilot and copilot, while Applicant specifically and unambiguously claims that the actions of three or more individuals are averaged to effect the action of an on-screen entity.

In view of the foregoing, Applicant submits that the claims as amended define patentable subject matter in view of the Examiner's cited references. Accordingly, Applicant earnestly solicits the Examiner's reconsideration and withdrawal of rejection, such that the application may pass to issuance as U.S. Letters patent.

Should the Examiner deem it helpful, he is encouraged to contact applicant's attorney, Michael A. Glenn, at (650) 474-8400.

Respectfully submitted,



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